

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**KYRA MOORE, on behalf of herself and  
others similarly situated,  
Plaintiff,**

v.

**RITE AID HDQTRS CORP., doing  
business as "RITE AID  
CORPORATION,"  
Defendant.**

**CIVIL ACTION**

**NO. 13-1515**

**O R D E R**

AND NOW, this 28th day of May, 2015, upon consideration of Defendant Rite Aid Hdqtrs Corp.'s Motion to Dismiss Plaintiff's First Amended Class Action Complaint (Document No. 35, filed September 22, 2014); Plaintiff's Response in Opposition to Defendant Rite Aid's Motion to Dismiss Plaintiff's Amended Complaint (Document No. 38, filed October 23, 2014); and Defendant Rite Aid Hdqtrs Corp.'s Reply Memorandum of Law in Further Support of its Motion to Dismiss the Amended Complaint (Document No. 41, filed November 7, 2014), for the reasons set forth in the accompanying Memorandum dated May 28, 2015, **IT IS ORDERED** that defendant's Motion to Dismiss Plaintiff's First Amended Class Action Complaint is **GRANTED IN PART** **AND DENIED IN PART**, as follows:

1. Defendant's Motion to Dismiss is **GRANTED** with respect to the claim of willfulness in Count I of the Amended Complaint to the extent that Count I is premised on the argument that plaintiff had insufficient time to contest the background report and adjudication before an adverse action was taken against her because she did not have a copy of her VAS on which LexisNexis relied. To the extent that Count I is premised on

that argument, recovery under Count I of the Amended Complaint is **LIMITED** to actual damages, costs, and attorney's fees under 15 U.S.C. § 1681o.

2. Defendant's Motion to Dismiss is **DENIED** in all other respects.

**IT IS FURTHER ORDERED** that the Court will conduct a telephone conference to schedule further proceedings in due course. Discovery may proceed in the interim.

**BY THE COURT:**

/s/ Hon. Jan E. DuBois  
**DuBOIS, JAN E., J.**